

Floor Statement of Senator Sherrod Brown – Opposing John Bush’s Nomination to the
6th Circuit, As Prepared for Delivery
July 19, 2017

Mr./Madame President,

Today’s vote today to move forward with president’s nominee to join the 6th Circuit Court of Appeals is a new low that sets a dangerous standard for judges that have power to make critical decisions impacting the everyday lives of the people we serve.

John Bush has a clear record of promoting bigotry and discrimination that has no place in our courts. We cannot let this nomination slip through the cracks.

Mr. Bush advocated to the U.S. Supreme Court that women should be barred from attending our military institutions – in this case, the Virginia Military Institute. In fact, he went so far as to call the legal standard allowing women to attend “destructive.”

This was in the 1990s – not the 1950s, or the 1890s.

Luckily, our nation’s Supreme Court disagreed with Bush’s retrograde and sexist opinion, by a vote of 7-1.

But Bush wasn’t deterred.

To this day, he’s still a member of an organization that doesn’t allow women to join.

He’s also been a member of groups that have a history of barring Jews and African Americans. One of these groups actually changed its street address after the City of Louisville renamed the street where the front entrance sits for boxing legend Muhammad Ali.

Sen. McConnell himself resigned from that same organization because, according to Lexington Herald-Leader, Sen. McConnell said he, “thought it was no longer appropriate to belong to a club that discriminated, and my impression was that the club did.”

Leader McConnell went on to reference a commonly accepted Senate standard that federal judges should not belong to discriminatory organizations, saying, “I thought if it was inappropriate for a federal judge to belong to an all-white club it certainly was something a United States Senator shouldn’t do.”

Sen. McConnell, I agree. It is inappropriate. No federal judge should belong to a group with a history of discrimination, especially a recent history.

Bush regularly contributed to a conservative blog using a fake name. There he advocated extreme political views on issues including healthcare, campaign finance, LGBT rights, and climate change – all critical issues that may come before his court.

He even cited white supremacist sources that pushed the conspiracy theory that President Obama was not born in the United States. He has expressed hostility toward women's right to make their own personal, private healthcare decisions. In a 2005 public speech, he cavalierly repeated a hateful homophobic slur.

He said Speaker of the House Nancy Pelosi should be gagged. And has attacked Senator Ted Cruz, our colleague in this body.

Now, everyone is entitled to the freedom of speech in this country – even if they choose to do it under a fake name. And Mr. Bush is entitled to his political opinions, no matter how offensive I and others may find them. But those opinions have no place in a federal court whose job it is to interpret the law fairly and impartially.

Can Mr. Bush be trusted to put aside his personal views when considering the law? Even according to his own words, no, he cannot.

At Mr. Bush's hearing, my friend from North Carolina, Sen. Tillis, asked Mr. Bush if judicial impartiality is, "*an aspiration or an absolute expectation.*"

Bush responded that he believes that impartiality is an "aspiration" – so, not an absolute expectation. He doesn't think he needs to be an impartial judge – he just needs to be able to say he tried.

To administer the law fairly and impartially is the number one job of a judge. The ability to do so is the most basic qualification for the job.

Judicial impartiality is a principal of democracy and the backbone of our government. It's the reason that African Americans and women can vote, that segregation is part of the past, and that marriage equality is part of the future. And, Mr. Bush, it is the reason that women can now attend the Virginia Military Institute. It is the difference between upholding and oppressing the rights of the people we serve.

Think about this: the *Obergefell* decision guaranteeing the right to marriage equality came out of the Southern District of Ohio – and was initially appealed to the 6th Circuit.

Imagine if the man who boldly repeated homophobic slurs had heard the *Obergefell* appeal.

Imagine if today an LGBT Ohioan or Michigander or Tennessean or Kentuckian faced this man on appeal. Could they be confident that their case would be decided fairly and impartially – that justice would be served? Could you be?

I have heard from both African Americans and Jewish Americans who are outraged at this nomination. Organizations with a history of fighting for justice and equality have written to me opposing this nominee, including: the Human Rights Campaign, the NAACP Legal Defense & Educational Fund, the National Council of Jewish Women, and the Leadership Conference, among others.

We have a responsibility to hold judges to the highest standard – the job demands it. The people we serve – the people whose lives can be forever changed by the decisions these judges make – deserve it.

We cannot allow the bar to be lowered for what is considered acceptable behavior by members of the federal bench. Because as that bar is lowered, the faith of citizens in the courts – and in this body – falls along with it.

I hope my colleagues will join me in opposing Mr. Bush and show the American people that the United States Senate still has high expectations for decency and impartiality in all our federal judges.

###